

**PATENT**  
Attorney Docket No. 6583  
Client Reference No. 066548-0064

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Dushyant Sharma

Art Unit: 3624

Application No.: 09/751,265

Examiner: Kelly Scaggs Campen

Filed: December 29, 2000

For: Integrated Systems for Electronic  
Bill Presentment and Payment

**APPELLANT'S APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In support of an appeal from the final rejection dated December 5, 2005, and the Notice of Appeal filed on May 1, 2006, Appellant now submits this Appeal Brief, with a request for a one-month extension of time.

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Application No. 09/751,265  
Notice of Appeal filed May 1, 2006  
Appeal Brief filed July 31, 2006

*Real Party In Interest*

The patent application that is the subject of this appeal is assigned to Metavante Corporation, Milwaukee, Wisconsin 53223.

*Related Appeals and Interferences*

There are no appeals or interferences that are related to this appeal.

*Status of Claims*

Claims 1-20 were finally rejected in the Office Action mailed on December 5, 2005. Claim 21 has been cancelled.

*Status of Amendments*

The last amendment in this application was filed on September 13, 2005. The amendment was entered.

*Summary of Claimed Subject Matter*

The present application is directed to integrated systems for bill presentment and payment. No claim elements in the independent claims of this application are in means plus function or step plus function format.

Claim 1

Claim 1 recites an electronic bill presentment and payment system (EBPP). The subject matter of this claim includes a database capable of storing data relating to a plurality of bills sourced from a plurality of billers, and corresponding to a plurality of customers. These claim limitations are described at least in the specification at p. 7, lines 8-10, which refer to a Sun platform using an Oracle database. The system, including the bill processor and database, is depicted in Fig. 1 as element 10. The figure also depicts a plurality of billers 12, 14 and a plurality of consumers 22. Claim 1 also recites a bill data processor coupled to said database, said bill data processor being capable of converting data received from said plurality of billers into a format compatible with said database. Support for this claim limitation is found at least in Claim 1 as filed, and in the specification at p. 8, lines 23-25, p. 9, lines 16-18, and p. 14, lines 18-23. The passage on p. 8 states that billing data may be supplied to consumers in a variety of standard accounting formats. The passage on p. 14 states that billing data for the EBPP may be in a format of any type, such as data from standard accounting packages or data formatted for printing. Fig. 22 gives an example of how the user specifies the data format.

Claim 1 further recites a bill report processor coupled to the database, the bill report processor being capable of allowing at least some of the plurality of billers to review and obtain reports in real time from data relating to billers and the status of the biller's bills in the database. This subject matter is described at least in Claim 1 as filed, in the specification on p. 15, lines 3-9 and in Figs. 26-27. The passage on p. 15 states that

the EBPP system 10 enables billers to create reports which may include a number of transactional statistics, such as the number of bills paid, the number of bills sent, the number of bills disputed, and so on. Figs. 26-27 display screen shots of two such reports, Fig. 26 depicting a report-generating template, and Fig. 27 depicting an example of such a report. Claim 1 as filed states that the reports may be in real time.

The bill security element recited in Claim 1 is depicted in Fig. 2, element 15, and in Fig. 6, and is described in the specification at least at p. 11, lines 1-5 and p. 14, lines 10-12. These passages state that billers and consumers are allowed access to the system only after they are registered and authenticated by, among other techniques, an encryption key. Fig. 2 schematically depicts the bill security element as a highly secure vault with only encrypted access. The portal interface element recited in Claim 1 is described in Claim 1 as filed, in the specification at least on p. 3, line 25, to p. 4, line 3, and is also apparent in Figs. 5-19. The passage on pp. 3-4 describes a portal interface accessible to a plurality of users for accomplishing billing and paying in whatever space or at whatever site they desire. Figs. 5-19 depict a plurality of screen shots indicating that users are at many different sites, including persons paying bills (Figs. 7 and 9-11) and billers (Figs. 19-23). The visual interfaces allow a consumer to review and pay the consumer's bills and thereby change information in the database only if the consumer has been authorized access to the database by a credit verifier. This limitation is supported at least in Claim 1 as filed, in Fig. 6, and in the specification at p. 8, lines 3-5. Thus, each limitation of Claim 1 is fully supported in the application as filed.

Claim 8

The limitations of independent Claim 8 are also fully supported in the application as filed. Claim 8 has many of the limitations of Claim 1, and an additional limitation of a bill payment processor capable of communicating with a plurality of financial institutions in order to couple said financial institutions to said database in order to facilitate payment of bills. This limitation finds support at least in Fig. 1, in Claim 3 as filed and also in the specification at p. 4, lines 6-7, and at p. 7, lines 26-28. Fig. 1 depicts financial institutions (banks) and payment facilitators in communication with the EBPP. The passage on p. 4 of the specification states that all EBPP functions and processes can be controlled by systems and processes of embodiments of the present invention. The passage from p. 7 of the specification states that the EBPP arranges all necessary transactions with payment facilitators and banks. Claim 3 as filed states that the EBPP system includes processing capacity with the recited communications capability. Thus, the application supports the Claim 8 limitation of a bill payment processor as recited in the claim.

*Grounds of Rejection to be Reviewed on Appeal*

The grounds of rejection to be reviewed on appeal are whether there is error in the rejection of Claims 1-20 under 35 U.S.C. § 112, second paragraph, as being indefinite, and whether there is error in the rejection of Claims 1-20 under 35 U.S.C. § 102(b) as being anticipated by European Patent Office published application EP 0745947A2.

*Argument*

Appellant appeals the final rejection of Claims 1-20 under section 112 as being indefinite, and under section 102(b) as being anticipated.

Section 112, second paragraph (Claims 1-20)

The rejection states that independent Claims 1 and 8 are indefinite because the claims recite a system and it is unclear as to whether the Appellant intends to claim a method or an apparatus. It is fundamental in patent examination that an Applicant may be his own lexicographer. M.P.E.P. 2173.01. An inventor may use language of his own choosing as long as the meaning of the term used is clear. Claim terms are to be read as they would be understood by a person of ordinary skill in the art, both in the context of a particular claim as well as in the context of the entire patent. Multiform Dessicants, Inc., v. Medzam, Ltd., 133 F.3d 1473, 1477 (Fed. Cir. 1998) (affirming claim construction and findings of noninfringement). There are cases in which the ordinary meaning of the claim language, as understood by a person of skill in the art, involves little more than the application of the widely accepted meaning of commonly used words. See Brown v. 3M, 265 F.3d 1349, 1352 (Fed. Cir. 2001) (affirming a finding of invalidity by anticipation). Instead of specialized treatises and dictionaries, in these circumstances, general purpose dictionaries may be helpful.

In this application, Appellant has distinguished between the terms "system" and "method" in the specification. For instance, the specification states that the application concerns "methods and systems for integrating electronic bill presentment and payment."

Specification, p. 1, lines 3-5. The system, the electronic bill presentment and payment system, is carefully described as an embodiment of the invention. Specification, p. 7, lines 3-12. Appellant has also repeatedly emphasized that embodiments of the invention include both a system and a process or method of using that system. See specification, p. 4, lines 6-7. Thus, Appellant has distinguished a method for integrating electronic bill presentment and payment, in one instance, from a system for electronic bill presentment and payment.

One definition of system is "a regularly interacting or interdependent group of items forming a unified whole." Merriam-Webster's Collegiate Dictionary, 10th ed. at 1197. An apparatus is defined in the same dictionary as "a set of materials or equipment designed for a particular use." Id. at 55-56. Thus, a system may be considered to be an apparatus. One definition of "method" is "a procedure or process for attaining an object." Merriam-Webster's Collegiate Dictionary, 10th ed. at 732. A system and a method are thus two distinct things, a system being a group or set of items or materials, while a method is a procedure or process.

Claims are indefinite if they recite both a system and a method for using that system, not because they recite a system and that term is unclear. IPXL Holdings, L.L.C., v. Amazon.com, Inc., 430 F.3d 1377, 1384 (Fed. Cir. 2005) (finding claims invalid because they recited a system and a method). In the present application, Appellant has distinguished between an apparatus and a method in the specification. Appellant previously amended the claims to eliminate the word "process" from the claims. All pending claims now recite "an electronic bill presentment and payment system,"



(emphasis added), with Appellant reserving the right to file additional claims to a method or process for electronic bill presentation and payment. Accordingly, the claims are not indefinite and Appellant requests the Board reverse the rejection of Claims 1-20.

Section 102(b) (Claims 1-20)

Claims 1-20 are rejected as anticipated by published European Pat. Appl. EP 0745947 to Gregory Bednar et al. (Bednar). The rejection states that Bednar discloses each of the limitations of Claims 1-20. Appellant appeals the rejection of the claims.

a. Claims 1-2

A claim is anticipated only if each and every limitation of the claim is found either expressly or inherently in a single prior art reference. Bristol-Myers Squibb Co. v. Ben Venue Labs., Inc., 246 F.3d 1368, 1374 (Fed. Cir. 2001) (affirming invalidity of claims because of anticipation). The system of Claim 1 recites five specific limitations, each with several qualifications and modifications. Bednar does not disclose at least a bill data processor coupled to a data base, the bill data processor being capable of converting data from a plurality of billers into a format compatible with the database. The rejection cites Bednar, cols. 3-5 and Figs. 8-9, for all the limitations of Claim 1, including the bill data processor.

Bednar does not have a Fig. 9. Fig. 7 depicts an electronic bill presenter extracting data from an accounts receivable (AR) database. Fig. 8 depicts a flowchart showing a process for creating and storing a template, the template used by a bill originator for his bills. Cols. 3-5 of Bednar describe Bednar's process for paying bills. These columns, and

Fig. 8, do not discuss, and thus do not disclose, any mention of data format or conversion of data from one format to another. Instead, Bednar requires all data to be in a form predetermined by a template. See col. 3, lines 40-44. Bednar requires that if the payer does not have local storage, the bill must be transmitted in whole, including the template or format portion and the variable bill data for each bill. Col. 3, lines 56-59. Even the bill presenter (biller) uses a predetermined format (template) for presenting bills. Col. 5, lines 10-14.

With respect to Claim 1, Bednar does not teach at least a bill data processor as claimed. Since Bednar does not disclose this limitation, and it is not required by any inherent property of a bill data processor, Bednar does not disclose a bill data processor capable of converting data from a plurality of billers into a format compatible with the database. *See In re Oelrich*, 666 F.2d 578 (C.C.P.A. 1981) (reversing rejections for anticipation). Because the reference does not disclose at least this limitation of Claim 1, there is no anticipation of Claim 1, which is therefore allowable. Accordingly, the final rejection of Claim 1 is error. Claim 2 is allowable because it depends from Claim 1.

b. Claim 3

Claim 3 recites the electronic bill presentment and payment system of Claim 1, further comprising a "bill payment processor capable of communicating with a plurality of payment facilitators in order to couple said payment facilitators to said database to facilitate payment of bills." The rejection does not cite any passage of Bednar that teaches this limitation. Bednar does not teach or suggest a facilitator or communicating with a facilitator. Bednar mentions only the bill originator, the bill originator's bank, the

bill payer's banks, and bill payers themselves. As shown in Fig. 2, Bednar's electronic bill presenter links these parties but does not include any payment facilitators. Accordingly, there is error in the final rejection of Claim 3.

c. Claim 4

Claim 4 recites the electronic bill presentment and payment system of Claim 1, "in which said bill security element is adapted to utilize a third party credit verifier as said credit verifier." The rejection does not cite any passage of Bednar that teaches this limitation. Bednar does not teach or suggest a credit verifier or a third party credit verifier. Bednar discloses only the bill originator, the bill originator's bank, the bill payer's banks, and bill payers themselves. As shown in Fig. 2, Bednar's electronic bill presenter links these parties, but does not include any credit verifier. Accordingly, there is error in the final rejection of Claim 4.

d. Claims 5-6

Claims 5-6 recite the electronic bill presentment and payment system of Claim 1, in which the portal interface element is adapted to employ HTML and XML transmissions, respectively. The rejection does not cite any passage of Bednar that teaches this limitation. Bednar merely teaches electronic transmission for his electronic bill payment system, without further elaboration. See col. 3, lines 12-22. Electronic transmissions may use other languages, such as SAS XPORT or SGML, for example. Bednar does not teach or suggest HTML or XML, to which there are alternatives, and are therefore not inherently required in electronic transmissions.

In finding inherent anticipation, a limitation missing from an explicit disclosure is inherent if that missing limitation or characteristic is necessarily present, or inherent, in the single anticipating reference. Continental Can. Co. v. Monsanto Co., 948 F.2d 1264, 1269 (Fed. Cir. 1991) (vacating summary judgment of anticipation because of insufficient evidence). Since Bednar does not teach or suggest the limitations of Claims 5-6, and these limitations are not inherent in electronic transmissions, there is error in the final rejection of Claims 5-6.

e. Claim 7

Claim 7 recites the electronic bill presentment and payment system of Claim 4, in which each consumer is authorized access to the database by a credit verifier during a particular consumer session on the visual interface only after an interactive session between the electronic bill presentment and payment system and the credit verifier which occurs during the consumer session. The rejection does not cite a particular passage of Bednar as teaching these limitations. As noted in the discussion of Claim 4, Bednar does not teach a credit verifier. Accordingly, Bednar cannot teach an interactive session between the electronic bill presentment and payment system and the credit verifier during a particular consumer session. Accordingly, the final rejection of Claim 7 is error.

f. Claims 8, 9-11, 14-15, and 18-20

Independent Claim 8 recites an electronic bill presentment and payment system. The system of Claim 8 recites six specific limitations, each with several qualifications and modifications. As noted above for Claim 1, Bednar does not disclose at least a bill data

processor coupled to a data base, the bill data processor being capable of converting data from a plurality of billers into a format compatible with the database. Instead, Bednar requires all data to be in a form predetermined by a template. See col. 3, lines 40-44.

Bednar requires that if the payer does not have local storage, the bill must be transmitted in whole, including the template or format portion and the variable bill data for each bill. Col. 3, lines 56-59. Even the bill presenter (biller) uses a predetermined format (template) for presenting bills. Col. 5, lines 10-14.

To anticipate a claim, the reference must teach every element of the claim. M.P.E.P. 2131. Bednar does not teach or suggest the bill data processor limitation and also does not teach or suggest several additional limitations of the portal interface element. For example, Bednar does not disclose that the portal interface element is used to initiate an interactive session with a consumer (bill payer) via a bill security element with a credit verifier to obtain authorization for the consumer to have access to information from the database. The rejection cites no passage of Bednar as disclosing this limitation. As noted in discussions above, Bednar does not teach or disclose a credit verifier. Bednar also does not teach or disclose security elements, and therefore Bednar does not teach or disclose an interactive session with a consumer and a credit verifier via a security element. For at least these reasons, the office action does not make out a prima facie rejection of Claim 8, and the rejection of Claim 8 is error. If examination at this stage does not produce a prima facie case of unpatentability, then without more, Applicant is entitled to grant of the patent. In re Oetiker, 977 F.2d 1443, 1445 (Fed. Cir.

1992) (reversing rejections based on anticipation). Claims 9-11, 14-15, and 18-20 depend from Claim 8 and are allowable at least because Claim 8 is allowable.

g. Claim 12

Claim 12 recites the electronic bill presentment and payment system of Claim 8 in which the bill data processor is adapted to allow an interactive session between the consumer and a particular biller. The rejection cites no particular passage in Bednar as teaching this limitation. The figures in Bednar, and the accompanying text, all depict interaction between the consumer and an electronic bill presenter, as seen in Fig. 2 and as discussed in col. 3, lines 12-22 and 26-44. Fig. 3 depicts the payer interacting only with the electronic bill presenter, in steps 302 and 310. Fig. 3 depicts the biller interacting only with the electronic bill presenter, in steps 308, 309, and 311. There is no text or figure in Bednar depicting a biller interacting directly with a consumer or payer. Accordingly, the final rejection of Claim 12 is error.

h. Claim 13

Claim 13 recites the electronic bill presentment and payment system of Claim 8 in which the bill payment processor is adapted to allow the consumer to pay bills using a credit card. The rejection cites no passage of Bednar for this disclosure. Bednar is very clear about the consumer authorizing payment, using a check as a visual cue to the consumer and disclosing payment from a bank account. Bednar, col. 4, lines 22-28 (using a bank account), 32-39 (showing the payment check), and 52-57 (using a check display as

a metaphor for a message to send a payment). There is no teaching or suggestion of payment via a credit card. Accordingly, the final rejection of Claim 13 is error.

i. Claim 16

Claim 16 recites the electronic bill presentment and payment system of Claim 8 wherein the bill data processor is adapted to allow a biller to modify online, the format in which a bill is presented to a consumer on the visual interface. Bednar teaches only that a biller may create and store templates for his bills. As discussed in col. 5, lines 10-14, and as depicted in Fig. 8, the bill originator creates templates and transmits them to the electronic bill presenter. There the templates are stored and then used in presenting bills to the payers.

In order to anticipate a claim, each and every limitation of the claim must be found in the single piece of prior art. M.P.E.P. 2131. The identical invention must be shown in as complete detail as is contained in the claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989) (affirming a finding of anticipation because of inherency).

As to Claim 16, there is no teaching or discussion in Bednar of modifying the template on-line; for instance, the bill originator may be using COBOL or other older, off-line type system to design and store its templates. Even when the rejection is based on a single reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference. In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). The bill originator may have very strict policies for access to its formats and how they may be changed, rather than allowing changes on-line. There is no teaching or suggestion of a

billers modifying its templates on line, or of a bill data processor (perhaps a part of Bednar's electronic bill payer) that is adapted to allow such modifications. Accordingly, the final rejection of Claim 16 is error.

j. Claim 17

Claim 17 recites the electronic bill presentment and payment system of Claim 8 in which the portal interface element is adapted to allow consumers to modify, online, the format in which a bill is presented to a consumer on the visual interface. As discussed above for Claim 16, Bednar does not teach or suggest modifying templates on line. While a bill originator may modify templates (not necessarily on-line), there is no discussion at all about the consumer's ability to modify bill presentment or format. The consumer can manipulate symbols on his own screen, such as by opening, closing, or paying bills; however, Bednar has no teaching of a consumer or payer's ability to modify the screen or its format. See Bednar, col. 4, lines 8-47. Accordingly, the final rejection of Claim 17 is error.

Appellant has shown that the rejection of Claims 1-20 under 35 U.S.C. §§ 102(b) and 112, second paragraph, is error. Appellant and the attorney below earnestly request that the Board reverse the rejections of Claim 1-20 and allow the claims of the application.

Respectfully submitted,

/David W. Okey/  
David W. Okey, Reg. No. 42,959  
REINHART BOERNER VAN DEUREN P.C.  
483 N. Mulford Road, Suite 7  
Rockford, Illinois 61107  
(815) 484-1900 (telephone)  
(815) 484-1032 (facsimile)

Date: July 31, 2006



## **CLAIMS APPENDIX**

1. (Previously presented) An electronic bill presentment and payment system, comprising:

a database capable of storing data relating to a plurality of bills sourced from a plurality of billers, and corresponding to a plurality of consumers;

a bill data processor coupled to said database, said bill data processor being capable of converting data received from said plurality of billers into a format compatible with said database;

a bill report processor coupled to said database, said bill report processor being capable of allowing at least some of said plurality of billers to review and obtain reports in real time from data relating to said billers and the status of said biller's bills stored in said database;

a bill security element which prohibits access to said database by any entity not having encrypted access to said database; and

a portal interface element coupled to said database, said portal interface element being capable of supporting a plurality of visual interfaces each associated with a different web portal or bill presentment and payment website, each visual interface being supported by a web portal or bill presentment and payment website different from other of said visual interfaces, each of said visual interfaces allowing a consumer to review and pay said consumer's bills and thereby change information in said database only if said consumer has been authorized access to said database by a credit verifier.

2. (Previously presented) An electronic bill presentment and payment system as defined in Claim 1, further comprising a bill payment processor capable of communicating with a plurality of financial institutions in order to couple said financial institutions to said database in order to facilitate payment of bills.

3. (Previously presented) An electronic bill presentment and payment system as defined in Claim 1, further comprising a bill payment processor capable of communicating with a plurality of payment facilitators in order to couple said payment facilitators to said database in order to facilitate payment of bills

4. (Previously presented) An electronic bill presentment and payment system as defined in Claim 1, in which said bill security element is adapted to utilize a third party credit verifier as said credit verifier.

5. (Previously presented) An electronic bill presentment and payment system as defined in Claim 1, in which said portal interface element is adapted to employ HTML transmissions.

6. (Previously presented) An electronic bill presentment and payment system as defined in Claim 1, in which said portal interface element is adapted to employ XML transmissions.

7. Previously presented) An electronic bill presentment and payment system as defined in Claim 4, in which each said consumer is authorized access to said database by a credit verifier during a particular consumer session on said visual interface only after an interactive session between said electronic bill presentment and payment system and said credit verifier which occurs during said consumer session

8. (Previously presented) An electronic billing presentment and payment system comprising:

a database capable of storing data relating to a plurality of bills sourced from a plurality of billers, and corresponding to a plurality of consumers;

a bill data processor coupled to said database, said bill data processor being capable of converting data received from said plurality of billers into format compatible with said database;

a bill report processor coupled to said database, said bill data processor being capable of allowing at least some of said plurality of billers to review and obtain reports in real time from data relating to said billers and the status of said biller's bills stored in said database;

a bill security element which prohibits access to said database by any entity not having encrypted access to said database;

a bill payment processor capable of communicating with a plurality of financial institutions in order to couple said financial institutions to said database in order to facilitate payment of bills; and

a portal interface element coupled to said database, said portal interface element being capable of supporting a plurality of visual interfaces each associated with a different web portal or bill presentment and payment website, each visual interface being associated with a different web portal or bill presentment and payment website from other of said visual interfaces;

wherein said portal interface element is adapted to prompt said consumer, via said visual interface, for logon information and to receive from said consumer, via said visual interface, logon information which is used to initiate an interactive session via said bill security element with a credit verifier to obtain authorization for said consumer to have access to information from said database, whereupon if authorization from said credit verifier is received from said credit verifier, said portal interface element is adapted to allow said consumer to access information in said database in order to pay bills.

9. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said consumer may use any one of a plurality of different ones of said visual interfaces on a to receive and pay bills.

10. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said portal interface element is adapted to allow said consumer to use said visual interface on its associated website to review and pay a plurality of bills from a plurality of billers.

11. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill report processor is adapted to allow said consumer to use one of said visual interfaces on a website to inquire online about the status of at least one bill, said inquiry being conveyed by said system to the particular biller.

12. (Previously presented) An electronic bill presentment and payment system as defined in Claim 11, wherein said bill data processor is adapted to allow said system to establish an interactive session between said consumer and the particular biller.

13. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill payment processor is adapted to allow said consumer to pay bills using a credit card.

14. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill report processor is adapted to allow said consumer to receive reports from said system.

15. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill report processor is adapted to allow said system to automatically notify a biller when a consumer has paid a bill.

16. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill data processor is adapted to allow a biller to modify, online, the format in which a bill is presented to said consumer on said visual interface.

17. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said portal interface element is adapted to allow said consumer to modify, online, the format in which a bill is presented to said consumer on said visual interface.

18. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill report processor is adapted to allow said consumer to select for review bills coming due on a certain date.

19. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said bill report processor is adapted to allow said consumer to select for review bills overdue.

20. (Previously presented) An electronic bill presentment and payment system as defined in Claim 8, wherein said portal interface element is adapted to allow said consumer to pay bills from a plurality of different visual interfaces, each on a different site.

21. Cancelled